

REMARKS

1. In response to the Office Action mailed April 29, 2008, Applicant respectfully requests reconsideration. Claims 1, 3, 4, 6-9, 13, 14 and 16 were last presented for examination. In the outstanding Office Action, claims 1, 3, 4, 6-9, 13, 14 and 16 were rejected. By the foregoing Amendments, claim 16 is amended to clarify the invention and not to limit its scope. Claim 17 is added and no claims have been cancelled. No new matter has been added. Upon entry of this paper, claims 1, 3, 4, 6-9, 13, 14, 16 and 17 will be pending in this application. Of these eleven (11) claims, 2 claims (claims 1 and 16) are independent.

Priority Claim

2. The Office Action states that no copies of certified copies of the priority documents have been received from the International Bureau. Accordingly, attached is a certified copy of GB0205299.1.

Claim Rejections under §112

3. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Claim 16 is amended above to accommodate the rejection. Specifically, claim 16 has been amended to recite “said third threaded element” instead of “said third threaded part”, which has sufficient antecedent basis. Applicant requests that the rejection be reconsidered and withdrawn.

Claim Rejections under §102

4. Claims 1, 3, 6, 7, and 16 are rejected under 35 U.S.C. 102(e) as anticipated by DE19848599 to Kirsch et al (herein “Kirsch”). The Office Action states that Kirsch describes all of the elements of the claimed invention. Applicant respectfully disagrees for at least the following reasons.

5. Kirsch is directed to a device which comprises an anchoring device (10) fixed in an axial bore in a section of bone, wherein the anchoring device (10) is also coupled to a threaded pin (18, 20). (*See*, Kirsch, Abstract; FIG. 1.) The threaded pin (18, 20) is in turn attached to a carrier (12, 14, 16) which is secured to the patient’s jaw bone. (*See*, Kirsch, Abstract; FIG. 1.)

By rotating the threaded pin (18, 20), the anchoring device (10) and the section of bone to which it is attached is moved with respect to the jaw bone. (*See*, Kirsch, Abstract; FIG. 1.)

6. Applicant's independent claim 1 recites, in part, "a smooth, non-threaded, alignment section disposed at an apex of said fixture, said alignment section configured to guide a transport segment of the jaw bone as the jaw bone is distracted and thereby prevent inappropriate movement by the jaw bone." (*See*, Applicant's independent claim 1, above; emphasis added.) Additionally, Applicant's independent claim 16 recites, in part, "a smooth, non-threaded, alignment section disposed at an apex of said fixture, said alignment section configured to cooperate with said pressure applied by said third threaded element to maintain distraction of the transport segment along said longitudinal axis." (*See*, Applicant's independent claim 16, above; emphasis added.) Applicant respectfully asserts that Kirsch fails to describe the "smooth, non-threaded, alignment section" as recited by each of Applicant's claims 1 and 16 above, and therefore that Kirsch fails to anticipate Applicant's claimed invention.

7. In rejecting Applicant's claims, regarding the "smooth, non-threaded, alignment section", the Office Action simply states that the feature is disclosed, without informing Applicant where in Kirsch such occurs. In fact, Applicant asserts that such a feature is missing from Kirsch. FIG. 1 of Kirsch shows a pin (18, 20) which has threads that extend substantially along the entire length of pin (18, 200).

8. Unlike Kirsch, Applicant's claimed invention has a "smooth, non-threaded, alignment section disposed at an apex of said fixture." (*See*, Applicant's independent claims 1 and 16, above.) As recited in the claim, it is "configured to guide a transport segment of the jaw bone as the jaw bone is distracted and thereby prevents inappropriate movement by the jaw bone." (*See*, Applicant's independent claim 1, above.) In independent claim 16, the smooth non-threaded alignment section is claimed as being "configured to cooperate with said pressure applied by said third threaded element to maintain distraction of the transport segment along said longitudinal axis." (*See*, Applicant's independent claim 16, above.)

9. As one having ordinary skill in the art would appreciate, Applicant's claimed smooth non-threaded alignment section would provide guidance during the distraction process as well as stability and security during distraction of the transport segment. As the skilled artisan would

recognize, this guidance is especially important and useful in such procedures where visibility and access may be severely limited. Even if some stability or security were to be provided by the connection point between Kirsch's threaded pin (18, 20) and the carrier (12, 14, 16), the stability and security provided by Applicant's smooth non-threaded alignment section would be an additional guiding, stabilizing and securing feature. Therefore, Applicant respectfully asserts that the invention as claimed is novel over Kirsch since Kirsch fails to describes or suggest the smooth non-threaded alignment section as claimed by Applicant.

New claims

10. New claim 17 recites, in part, "wherein the diameter of said smooth non-threaded alignment section is narrower than the diameter of said first externally threaded part." (*See*, Applicant's new claim 17, above.) Support for new claim 17 is found in the originally filed specification and drawings, including in FIGS. 1 and 2. Applicant asserts that Kirsch also fails to describe a smooth non-threaded alignment section having a diameter narrower than the diameter of the first externally threaded part. Accordingly, Applicant asserts that new claim 17 is also patentable over Kirsch.

Dependent claims

11. The dependent claims incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them independently patentable over the art of record. Accordingly, Applicant respectfully asserts that the dependent claims are also allowable over the art of record.

Conclusion

12. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

13. Applicants reserve the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application. Any cancellations and amendments of above claims, therefore, are not to be construed as an admission regarding the patentability of any claims and Applicant reserves the right to purse such claims in a continuation or divisional application.

14. In the event that the examiner believes that an interview would serve to advance the prosecution of this application, the undersigned is available at the number noted below.
15. Please charge any fees do with this response to our Deposit Account Number 22-0185, under Order Number 21547-00298-US1 from which the undersigned is authorized to draw.

Respectfully submitted,

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